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Attorneys for Defendants

UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

RIC GABBERT, a married man,

Plaintiff,

v.

CHIRO PLUS CHIROPRACTIC  
CENTER, P.C., an administratively  
dissolved domestic corporation, FIRST  
MEDICAL PLUS FAMILY PRACTICE,  
INC, a domestic corporation, BODYAZ  
AESTHETIC MEDSPA, LLC, a domestic  
limited liability company, and DR.  
MATTHEW B. HARTY, an unmarried  
man,

Defendants.

Case No. 2:11-CV-0547-PHX-DGC

**JOINT 60(a) MOTION FOR RELIEF**

1 Defendants Chiro Plus Chiropractic Center, P.C., First Medical Plus Family  
2 Practice, Inc., BodyAZ Aesthetic Medspa, LLC and Dr. Matthew B. Harty (collectively  
3 “Defendants”) and Plaintiff Ric Gabbert (“Gabbert”) (collectively the “Parties”) by and  
4 through undersigned counsel, respectfully request that the Court correct the sealed  
5 document filed on September 30, 2011 [Dkt. 25] pursuant to Fed.R.Civ.P. 60(a) due to a  
6 clerical mistake.

7  
8 The Parties filed a Joint Motion to File Under Seal Confidential Settlement  
9 Agreement and Approval of Confidential Settlement Agreement and Stipulation for  
10 Dismissal with Prejudice on September 19, 2011 [Dkt. 21]. Due to a clerical error, the  
11 proposed settlement agreement was not filed with the motion on September 19 but was  
12 filed the following day. [Dkt. 23]. At the time of the filing, it was believed by  
13 Defendants that the version filed, although not yet signed, represented a final version of  
14 the settlement. However, the lodged agreement turned out not to be the final version of  
15 the Parties’ settlement agreement. Subsequently, the Court approved the joint motion  
16 [Dkt. 24] and approved the draft of the confidential settlement agreement [Dkt. 25].

17  
18 The Parties have since finalized their settlement agreement and executed the same.  
19 The Parties hereby represent to the Court that the revised agreement submitted herewith  
20 did not materially change the terms of the settlement agreement previously approved by  
21 the Court and particularly did not change the amount of the settlement sum. Instead, the  
22 revisions reflect certain wordsmithing of various provisions and a clarification of the  
23 confidentiality provision.  
24  
25

1 The Parties therefore request that the Court approve the finalized settlement  
2 agreement submitted herewith, file it under seal and replace Document 25 with the  
3 finalized agreement. The Court may correct clerical mistakes, such as this, pursuant to  
4 Fed.R.Civ.P. 60(a).

5  
6 Dated this 28<sup>th</sup> day of October, 2011.

7  
8 s/ Michelle R. Matheson

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13  
14 s/ Michelle R. Matheson for

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20 **CERTIFICATE OF SERVICE**

21 I certify that on this 28<sup>th</sup> day of October 2011, I electronically transmitted a PDF  
22 version of this document to the Office of the Clerk of Court, using the CM/ECF System,  
for filing and for transmittal of a Notice of Electronic Filing to the Following CM/ECF  
registrants:

23 The Honorable David G. Campbell  
24 United States District Judge

25 s/ Heather Daniels